

Before the  
**Federal Communications Commission**  
Washington, D.C. 20554

In the Matter of	)	
	)	
Revision of the Commission's Rules	)	CC Docket No. 94-102
to Ensure Compatibility with Enhanced 911	)	
Emergency Calling Systems	)	

**Request of Telecommunications Management Group, LLC  
for a Temporary Waiver  
of Section 20.18(c) of the Commission's Rules**

Telecommunications Management Group, LLC ("TMG"), by its attorneys and pursuant to Sections 1.3 and 1.925 of the Commission's Rules, hereby requests a one-year waiver of the requirement that digital wireless service providers be able by June 30, 2002, to transmit 911 calls from individuals with speech or hearing disabilities using Text Telephone (TTY) devices.<sup>1</sup> As TMG explains in more detail below, a temporary waiver until June 30, 2003, is appropriate under sections 1.3 and 1.925 of the Commission's rules<sup>2</sup> because the hybrid wireline-wireless switch which supports TMG's network must be replaced and because TMG has so far been unable to obtain from vendors the software and handsets necessary to provide compatibility between TTY devices and TMG's digital wireless service.

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<sup>1</sup> See 47 C.F.R. § 20.18(c); *In re* Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Fourth Report and Order*, FCC 00-436, at ¶ 1 (rel. Dec. 14, 2000) (Fourth Report and Order).

## **I. Background**

TMG owns and operates a Personal Communications Service ("PCS") station in one small Basic Trading Area ("BTA") in South Mississippi: Laurel, MS. TMG uses the IS-136 TDMA interface, and its network is supported by a Nortel W-100 hybrid wireless and wireline switch. Nortel has no TTY solution for the W-100 hybrid switch.

## **II. Steps TMG Is Taking to Enable Customers to Use TTY Devices in Conjunction with Digital Wireless Phones**

TMG has been working with Nortel to achieve compliance with several regulatory obligations, including TTY and E911 requirements. After multiple consultations, it was determined that the wireless and wireline functionality of the hybrid switch supporting its network had to be separated into two distinct switches: a DMS-100 wireline switch and a DMS-MTX wireless switch. Nortel originally advised that the switch split would take place in January 2002. That date then slipped to June. Nortel has now indicated that the switch split will take place in August, at the earliest.

Once both switches are in place,<sup>3</sup> the switch software in the DMS-MTX wireless switch must be upgraded to the Nortel MTX10 software load required for TTY functionality. Although the software is generally available, Nortel has been focussing its installation efforts on large, nationwide carriers. Nortel has said it will not complete the extensive software upgrade in the wireless switch before the fourth quarter of 2002.

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<sup>2</sup> 47 C.F.R. § 1.3; 1.925.

<sup>3</sup> The software in the wireless switch cannot be upgraded until the wireless functionalities have been separated out to a wireless-only switch.

TMG is also gathering information from handset manufacturers and Nortel in its search for TTY-compliant handsets that Nortel deems compatible with its switch. TMG has so far been unable to find such handsets, but is working with its vendors to acquire handsets as soon as possible.

Once network TTY functionality is installed and TMG has the handsets, TMG will begin testing for compatibility and quality assurance within its own network. Testing will involve primarily three groups: TMG engineers and technicians, PSAP representatives, and consumers. TMG has excellent relationships with the PSAPs in its service area and is working with them to ensure complete communications functionality between handsets and PSAPs. The University of Southern Mississippi has an active program assisting hearing impaired people in the area, and TMG will enlist university students to help in the testing.

Presuming Nortel's completion of the switch split does not slip beyond August 2002 and its installation of the MTX10 software load takes place by the end of the fourth quarter, TMG plans to test and deploy full TTY functionality throughout its entire service area by June 30, 2003.<sup>4</sup>

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<sup>4</sup> TMG's previous plans to deploy the TTY functionality by earlier dates have been delayed by Nortel estimates of availability that proved inaccurate and by postponements by Nortel of installation schedules. The dates proposed in the instant waiver request will require adjustment if Nortel's installation dates continue to slip.

### III. Waiver is Appropriate Under Sections 1.3 and 1.925

Waiver is appropriate under Section 1.3, which states that Commission rules may be suspended or waived “for good cause shown.”<sup>5</sup> TMG’s situation presents good cause. Most all manufacturers of TTY-compliant equipment have taken longer than expected to develop an industry-wide TTY standard, as well as compliant hardware and software. Thus, despite its best efforts, TMG has so far been unable to secure from its vendors the network equipment, software, and handsets necessary to enable customers to use TTY devices in conjunction with digital wireless phones. TMG is working with its vendors to remedy these obstacles as soon as possible. TMG has already identified a solution, and the necessary replacement of the switch has been arranged. TMG also has coordinated regarding the required software upgrade, and is actively searching for the appropriate handsets.

Waiver is also appropriate under Section 1.925, which provides two alternative grounds for waiver. Under Section 1.925(b)(3)(i), the Commission may grant a waiver if it is shown that “[t]he underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest.”<sup>6</sup> The purpose of the TTY digital wireless compatibility deadline is to accomplish compatibility between TTY devices and digital wireless phones as quickly as possible and to

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<sup>5</sup> 47 C.F.R. § 1.3.

<sup>6</sup> 47 C.F.R. § 1.925(b)(3)(i).

provide carriers with a date certain so that they would maintain TTY access as a priority.<sup>7</sup> Those purposes are being served. TMG is working as expeditiously as possible to implement TTY compatibility. It has made compliance with not only the TTY requirements, but other regulatory obligations as well, a priority, and has devoted resources toward that end. Further expediting that process is out of TMG's hands and in the control of vendor schedules, so rigid application of the deadline will not serve the rule's purpose.

Granting the waiver is in the public interest because it will allow TMG sufficient time for the necessary equipment and software to be installed, and to conduct essential testing to ensure that its solution works. When it adopted Rule 20.18(c), the Commission recognized the "technical difficulties associated with transmitting TTY calls on digital TTY systems" because carriers "cannot pass the Baudot-encoded audio tones produced by TTY devices."<sup>8</sup> In light of those technical difficulties, the Commission suspended enforcement of the requirement, delayed the compliance deadline, and granted numerous temporary waivers of the rule to wireless carriers operating digital networks.<sup>9</sup> By extending these deadlines and granting waivers of the compliance deadlines, the FCC effectively acknowledged that the public interest is served by allowing manufacturers to complete developing their TTY products and by allowing carriers a reasonable amount of time to install, test and implement the solutions. Granting the waiver is

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<sup>7</sup> *Fourth Report and Order*, at ¶ 29.

<sup>8</sup> *Fourth Report and Order*, at ¶ 2.

<sup>9</sup> *Id.* See also *In re* Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd. 18676, 18701 (1996), *recon.*, 12 FCC Rcd. 22665 (1997) at ¶ 59; *Order*, 14 FCC Rcd. 1700 (1998); *Order*, 14 FCC Rcd. 3304 (1999).

also in the public interest because it will allow vendors to focus on larger, nationwide carriers, and thereby aid in getting compatible service out to as many people in as short a time as possible.

Under Section 1.925(b)(3)(ii), waiver is appropriate if, "[i]n view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative. That standard is met here. TMG's factual circumstances are unique and unusual. TMG's network has been served by a hybrid wireline and wireless switch for which Nortel has no TTY solution. Moreover, coordinating the required equipment and software is difficult for TMG because, as a small carrier, TMG has only limited resources, and does not have sufficient leverage to demand more of its vendors' resources.

Because of TMG's limited resources and the fact that its delayed implementation is the result of factors beyond its control, rigid application of the requirement would be inequitable and unduly burdensome, especially since TMG is concurrently in the process of trying to implement system modifications to implement the CALEA requirements. As discussed above in connection with the Section 1.925(b)(3)(i) standard, rigid application of the requirement would also be against the public interest because it would prevent TMG from conducting the necessary testing to ensure that its TTY solution works and would slow down implementation for larger carriers with wider customer bases. Moreover, because TMG's equipment and software availability problems and vendor issues are beyond its control, especially in light of its status as a small carrier, TMG has no reasonable alternative.

In any event, grant of the waiver will have little impact. Few if any compatible handsets are currently available to consumers. Thus, grant of the waiver is unlikely to delay the availability of TTY compatible service for digital wireless phones in TMG's service area.

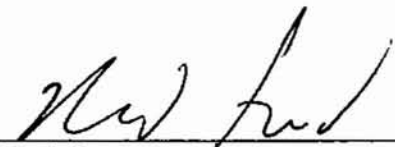
#### IV. Conclusion

Having met the applicable standards in section 1.3 and 1.925 of the Commission's rules, TMG respectfully requests that the FCC grant TMG a limited, temporary waiver until June 30, 2003, of the requirement that digital wireless service providers be able to transmit 911 calls from individuals with speech or hearing disabilities using TTY devices.

Respectfully submitted,

**TELECOMMUNICATIONS  
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June 27 2002

### **Declaration of David Abel**

I, David Abel, do hereby declare under penalty of perjury that:

1. I am the Regulatory Projects Manager of Telecommunications Management Group, LLC.
2. I have read the foregoing "Request of Telecommunications Management Group, LLC, for a Temporary Waiver of Section 20.18(c) of the Commission's Rules."
3. I have personal knowledge of the facts set forth therein.
4. Except with respect to those facts of which judicial notice may be taken, those facts are true and correct to the best of my knowledge, information, and belief.

Executed this 26 day of June, 2002

  
David Abel